



Received & Inspected

JUL - 8 2011

FCC Mail Room

June 30, 2011

Commission's Secretary
Office of the Secretary
Federal Communications Commission
Attention: CGB Room 3-B431.
445 12th Street, SW,
Washington, DC 20554.

Re: Petition for Exemption of Closed Captioning Requirement for The Africa Channel, Inc.

Dear Office of the Secretary,

The Africa Channel ("TAC") respectfully petitions for a temporary waiver from the closed captioning requirements pursuant to section 79.1 of the Commission's rules, 47 C.F.R. § 79.1, for the television programming on TAC. Compliance with the closed captioning requirements would impose an undue burden on TAC, as defined in section 79.1(f) of the Commission's rules.

Background:

The Africa Channel is a young cable channel, having launched its first market in Q4 2005. Through great effort and investment, the channel to date has only minimal distribution, totaling approximately 3.9 M homes nationwide.

Approximately fifty percent (50%) of TAC's programming is produced in Africa (by third parties unrelated to TAC) for broadcast on African television. After it is broadcast in Africa, it is licensed by TAC directly from the African producers for broadcast in the United States. The remaining 50% (approximate) of programming is produced by TAC locally in the U.S.

The channel generates minimal revenues and operates at a loss. In efforts to survive in a struggling economy, the channel maintains only a skeletal crew. This leaves the channel

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shorthanded, with most of the employees filling several positions within the company. All employees are stretched to their limits.

Undue Economic Burden:

The requirement to provide closed captioning would impose an undue economic burden on TAC. When determining if the closed captioning requirements will impose an undue burden, the statute requires the Commission to consider the following factors:

(1) The nature and cost of the closed captions for the programming;

At this time, TAC does not have the financial resources to acquire the appropriate equipment and/or to contract with a closed captioning service in order to close caption its programming. It is estimated that the costs to close caption the TAC programming for the first year is approximately \$612,000. This includes: captioning existing programming at a cost of \$420,000, costs to integrate the programming into the channel's traffic system at a cost of approximately \$42,000 a year, and the hiring of two additional staff persons to manage the work flow duties in house that relate to captioning at a cost of \$150,000 per year. The second year would be slightly less at a total cost of \$400,000. The lower amount is due to the fact that the cost of existing programming will have been absorbed in year one. The costs for each subsequent year will be approximately \$400,000-\$500,000, depending on the amount of new programming the Channel is able to acquire or produce.

TAC program producers\suppliers have been informed about the need for closed captioning and they have been encouraged to provide captioned programs. However, TAC has been notified that the primary program producers are not financially able to provide quality programming that is also captioned. There is no similar captioning requirement in Africa where most of the programming is produced, and captioning the programming for the US market is not economically feasible. Of note, an insignificant number of episodes of one program series from the producer, MNET, are currently captioned. However, to close caption the remaining episodes from this producer would be costs that TAC would be required to absorb, and that cost is prohibitive per reasons stated above. See attached Exhibit B from these producers.

(2) The impact on the operation of the provider or program owner;

In the absence of an exemption or waiver, TAC will be forced to curtail the acquisition of new programming it airs or to curtail other significant network operations required to get programming on air and to run the network.

The ambitious nature of TAC's efforts to bring African programming to the US for the first time has resulted in substantial financial losses to date. The channel does not have the resources to absorb the additional cost of closed captioning at this time.

A requirement to provide closed captioning for all of its programming would severely hinder

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the operations of the company. The requirement would necessitate purchasing equipment and hiring personnel to perform the captioning and/or contracting with a third party to perform the captioning, a cost that TAC cannot absorb at this time. In addition to paying a third party, the closed captioning requirement would also necessitate hiring an internal editor and traffic operations supervisor to prepare the shows for captioning. TAC cannot afford to hire any additional personnel at this time, and thus, someone would have to be pulled from another area within the company. The TAC employees are typically performing more than one job each currently. In order for the company to survive financially in an unsteady economic climate, most employees agreed to reduce their salaries for the last three years by 30% to 50%, and most are working 12 hour days. To sacrifice an important existing job would jeopardize the overall quality of the TAC programming. For instance, one of the most likely persons to be assigned to perform the captioning related duties would be one of the TAC editors. Should this editor be assigned to oversee the closed captioning responsibilities, he/she would not be able to fully perform his/her other daily required duties of prepping shows for air, and thus, the channel would be forced to reduce the number of shows that it currently airs. The quality service that TAC currently provides would have to be sacrificed. The overall quality of the channel would suffer.

(3) The financial resources of the provider or program owner;

The Africa Channel has reported a net loss for each of the eight fiscal years since its inception in 2003.

An affidavit accompanying this filing and attached as Exhibit A, signed and sworn by Bob Reid, General Manager and EVP of The Africa Channel, verifies that all facts and financial information contained herein are true and accurate.

(4) The type of operations of the provider or program owner.

TAC is a California Corporation.

The channel strives to provide vibrant, educational, informative and entertaining programming about the continent of Africa to the American audience. The Company's mission is to open a window into Africa and hopefully change minds, perceptions and understandings about the little-known continent. As the only US network whose primary focus is on Africa, TAC plays a vital role in bridging the gap between African Americans and their ancestral homeland. Our belief is that through understanding, change can occur. We hope to assist the struggling continent by educating one viewer at a time. A requirement at this time to provide closed captioning would significantly impair the high quality of programming the channel strives to provide.

Other relevant factors:

Currently, TAC airs a half hour program called *Generations*, three times per day, five days per week. The dialogue in this program contains many different African dialects, and consequently,

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approximately fifty percent (50%) of that show is currently subtitled. This amounts to approximately 3.2% of TAC programming lineup.

Another popular scripted dramatic program called *Isidingo* contains different African dialects during its broadcast. These various African dialects are subtitled when they occur which is approximately ten percent (10%) of the program's respective airtime. This amounts to approximately .5% of TAC programming lineup.

2.4% of TAC programming is comprised of movies produced in a foreign language that are currently subtitled.

The total of programs, therefore, that *currently* contain subtitles equal approximately 6% of the TAC programming lineup.

Of additional note, the Africa Channel airs African Music videos as part of its programming lineup, many of which contain multiple languages or African dialects. The amount of this programming with African dialects equates to approximately 11% of the TAC lineup. The various dialects are not subtitled. Most non-hearing impaired persons do not understand the lyrics, but TAC believes that in this instance, not understanding the lyrics does not interfere with the overall experience of watching the performers.

Alternatives to Closed Captioning:

At the present time, TAC does not have any reasonable alternative for closed captioning. Adding text or graphic display of the audio would still require transcribing services and increase the editing time and overall post production time for each show. This would increase costs which TAC is unable to support.

TAC is committed to helping the hearing impaired community and is willing to acquire and provide closed captioning for the community after the first two consecutive financial quarters in which it achieves profitability which is anticipated to be fourth quarter 2012.

It is therefore respectfully submitted that TAC be granted a temporary waiver of the Federal Communications Commission's closed captioning requirements for two years, through the end of 2013.

Respectfully submitted,



Bob Reid

EVP and General Manager

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EXHIBIT A
Affidavit in Support of the Petition by Bob Reid

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EXHIBIT A
Affidavit in Support of the Petition by Bob Reid


AFFIDAVIT In Support of
The Africa Channel, Inc Petition for Closed Captioning Waiver

State of California
County of Los Angeles

BEFORE ME, the undersigned Notary, PAWAZ K. AMER

on this 29 day of June 2011, personally appeared Bob Reid, a credible person and of lawful age, who being by me first duly sworn on the above date his oath, deposes and says:

I, Bob Reid, am EVP and the General Manager of The Africa Channel, Inc. ("TAC"). I am responsible for the day to day operations of the channel. The petition for exemption from Closed Caption requirements, filed on June 30 2011 and the facts stated therein are to the best of my knowledge true and accurate. The petition accurately reflects the financial and business affairs of TAC.


(signature of affiant)
5200 Lankershim Blvd, H750
North Hollywood, CA 91601
(address of affiant)

State of California
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this 29 day of June 2011, by
Bob Reid, proved to me on the basis of satisfactory evidence to be the
person(s) who appeared before me.

Signature  (Seal)



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EXHIBIT B
Memos from Program Producers
Two memos attached

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From: Ida HamesMcNair [<mailto:ida@sabc.co.za>]
Sent: Wednesday, April 20, 2011 11:49 PM
To: Bob Reid
Cc: Fred Paccone; Tennyson Mothupi; Shalini Naidoo
Subject: FW: Closed Captioning
Importance: High

Dear Bob,

Thanks for your mail.

Regarding your request, unfortunately, SABC cannot provide TAC with closed captioning programming because it is not part of how we license programming and to do so would be cost prohibitive. Please let me know if you have any further questions.

Best regards,

Ida Mc Nair – Head: International TV Programmes Sales | SABC Limited
Business Development- Content Enterprises
Tel: +27 (11) 714 5674 | Fax: +27 (11) 714 3055| Mobile +27 82 377-0307
Private Bag X1, Auckland Park, 2006, Gauteng, South Africa
E-mail: ida@sabc.co.za

From: Irene Markantonis [mailto:irene@theafrica.org.za]
Sent: Friday, June 24, 2011 05:52 AM
To: Shirley Neal
Subject: FW: Closed Captioning

Hi Bob

The current rate for closed captions (April 2011 – March 2012) is R45,40 per running minute of total programme time. This fee is for transcribing, not translation.

Of the shows licensed to you to date (as per list below) – only the ff series that have been done with closed captions:

Ella Blue - Season 1 Episodes 1-6
Jacob's Cross - the first 26 episodes

Please let me know what you need me to do to take this forward

Jacobs Cross Season 1 – 6
Studio 53
Face of Africa –All seasons
Urban Massive season 2
Dance Africa Season 1
Big Brother Africa
Ella Blue
Channel O Awards 2005

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